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October 28, 2016

**VIA ELECTRONIC AND FIRST CLASS MAIL**

Federal Election Commission  
Office of Complaints Examination  
and Legal Administration  
Attn: Jeff S. Jordan, Assistant General  
Counsel  
999 E Street, NW  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION

Re: Second Complaint in MUR #6857  
Speedway Motorsports, Inc.  
New Hampshire Motor Speedway, Inc.  
Mr. Jerry Gappens, Ms. Lucy Gappens

2016 NOV -3 PM 12:57

OFFICE OF GENERAL  
COUNSEL

Dear Ms. Rawls:

Our firm represents Speedway Motorsports, Inc., New Hampshire Motor Speedway, Inc., Mr. Jerry Gappens and Mrs. Lucy Gappens. Our firm received a complaint from Judy Brown in this matter on July 21, 2014, which we responded to on September 22, 2014. The purpose of this letter is to respond to a second similar complaint in this same matter filed by Lawson Brouse on July 23, 2014, which we received on September 30, 2016. You were gracious to allow us an extension until today to respond.

**Speedway Motorsports, Inc.**

Speedway Motorsports, Inc. ("SMI") is a Delaware corporation with its principal place of business in Charlotte, North Carolina. SMI owns racing facilities across the United States including the New Hampshire Motor Speedway.

SMI was not aware that a campaign event for the Marilinda Garcia for Congress Campaign had taken place at the New Hampshire Motor Speedway prior to receiving a copy of the July 23, 2014, complaint from Judy Brown. Once SMI determined that neither Marilinda Garcia for Congress nor any individual had paid for the food and race tickets for the event, it directed Mr. Jerry Gappens, then Executive Vice President and General Manager of New Hampshire Motor Speedway, Inc., to prepare an invoice for the Campaign.

Mr. Gappens left his employment at New Hampshire Motor Speedway, Inc. on September 30, 2015. During the course of his departure, there was a gap in communication regarding the preparation and delivery of the invoice. During the course of responding to this second inquiry, SMI learned that the invoice had not been delivered to the Marilinda Garcia for Congress Campaign. In response, SMI immediately instructed New Hampshire Motor Speedway, Inc. to prepare and deliver the invoice. The invoice was delivered on October 27, 2016. A copy of that invoice is attached to this response, which reflects that the total cost of food and race tickets for the event was \$4,485. Marilinda Garcia for Congress is responsible for that payment.

**New Hampshire Motor Speedway, Inc.**

New Hampshire Motor Speedway, Inc. ("NHMS") is a "C" corporation that is wholly owned by SMI. NHMS operates a sports and entertainment facility in Loudon, New Hampshire.

The campaign event in question was not an NHMS sponsored event. The total cost of food and race tickets for the event was \$4,485, as reflected in the attached invoice that NHMS submitted to Marilinda Garcia for Congress on October 27, 2016.

**Mr. Jerry Gappens**

Jerry Gappens was the Executive Vice President and General Manager of NHMS at the time of the campaign event. He resides in Bedford, New Hampshire.

Prior to accommodating the Marilinda Garcia for Congress Campaign, Mr. Gappens had previously arranged for a similar event at NHMS for a candidate running for a seat in the New Hampshire State Senate, which is permitted under New Hampshire law. The confusion over what he could do for Marilinda Garcia for Congress stems from the fact that New Hampshire allows corporate campaign contributions.

Mr. Gappens did not submit an in-kind contribution form to Marilinda Garcia for Congress. Additionally, Mr. Gappens's failure to send the invoice to the Campaign for the event was not intentional, but a result of the gap in communication upon Mr. Gappens's departure from NHMS.

**Mrs. Lucy Gappens**

Lucy Gappens is the wife of Jerry Gappens. Mrs. Gappens resides in Bedford, New Hampshire.

Mrs. Gappens did not attend the event in question nor was she aware it was taking place. She also did not provide an in-kind contribution form to Marilinda Garcia for Congress.

**Case Disposition**

Neither SMI nor NHMS intended to contribute food and race tickets to Marilinda Garcia for Congress. There was a misunderstanding between Mr. Gappens and Marilinda Garcia for Congress over who was responsible for paying for the food and race tickets. Once SMI and NHMS discovered that neither Mr. Gappens nor the campaign paid for those goods, SMI instructed NHMS to send the Campaign an invoice. The invoice has been delivered and NHMS is awaiting payment from the Campaign.

Because none of the parties intended to violate federal campaign finance laws, this matter is well suited for the Commission's conciliation process. The parties have clarified the misunderstanding regarding payment for the event, and our clients have taking the necessary steps to receive payment. We request that the Commission enter into a conciliation agreement finding that Speedway Motorsports, Inc., New Hampshire Motor Speedway, Inc., Mr. Jerry Gappens, and Mrs. Lucy Gappens have complied with federal law in the disposition of this matter.

If you have any questions or need further information, please contact me directly at (919) 890-4147.

Sincerely,



R. Bruce Thompson II

cc Mr. Jerry Gappens  
Mrs. Lucy Gappens



**NEW HAMPSHIRE**  
**MOTOR SPEEDWAY**

PAGE 1

NEW HAMPSHIRE MOTOR SPEEDWAY  
POST OFFICE BOX 7888  
1122 ROUTE 108 NORTH  
LOUDON, NH 03307  
UNITED STATES OF AMERICA  
(603)-783-4744

INVOICE DATE 10/27/2016  
INVOICE NO 35318

S 8801  
O Marilinda Garcia for Congress  
L David Horan  
D PO Box 821  
T Salem, NH 03079  
O

S 8801  
H Marilinda Garcia for Congress  
I David Horan  
P PO Box 821  
T Salem, NH 03079  
O

TOTAL DUE 4,485.00

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP NO
		10/27/2016	10/27/2016	00009059	10/27/2016	10/27/2016	
TERMS DESCRIPTION		CUSTOMER PO NO			SHIP VIA		
NET							
ITEM ID		TX CL	UNITS	ORDERED	SHIPPED	UNIT PRICE	EXTENSION
2014 NHMS Event		0	EA	1.00	1.00	4,485.00	4,485.00

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC	TOTAL
0.00	4,485.00	0.00	0.00	0.00	4,485.00
TOTAL DUE					4,485.00